

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

FILED  
U.S. DISTRICT COURT  
NEW ALBANY DIVISION

10 APR 23 PM 3:12

SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

CHARLES ALVEY,

Plaintiff,

v.

MORGAN FOODS, INC.,

**Serve Registered Agent:**

John S. Morgan  
90 W. Morgan Street  
Austin, IN 47102

Defendant.

**4 : 10 -cv- 0 0 3 9 SEB -WGH**

Case No. \_\_\_\_\_

**COMPLAINT**

Plaintiff Charles Alvey, by counsel, for his complaint, states as follows:

**JURISDICTION & VENUE**

1. Charles Alvey is a resident of Floyds Knobs, Floyd County, Indiana.
2. Morgan Foods, Inc. (Morgan Foods) is an Indiana for-profit domestic corporation with its principal office in Austin, Scott County, Indiana.
3. Decisions regarding Alvey's employment with Morgan Foods occurred in Austin, Scott County, Indiana, thus jurisdiction and venue are proper.

**FACTS**

4. Alvey was employed by Morgan Foods from November 9, 1998 to October 10, 2008 as a maintenance supervisor.
5. Throughout his employment, Alvey consistently received excellent evaluations.
6. Alvey was off work from June 2008 to September 2008 due to health related issues, including heart surgery.

7. When Alvey returned to work, he was placed on a performance improvement plan and required to meet unreasonable work demands.
8. On October 10, 2008, Alvey's employment with Morgan Foods was involuntarily terminated.
9. Alvey was 58 years old at the time his employment was terminated.
10. On the day of his termination, Ken McDonald, a supervisor, made a disparaging comment about Alvey's health problems.
11. Later the same day another member of management stated that Alvey was being terminated due to his health issues.
12. Similarly situated employees under the age of 40 were not placed on performance improvement plans or terminated.
13. Similarly situated employees without health problems or perceived health problems were not placed on performance improvement plans or terminated.
14. As a result of Morgan Food's conduct Alvey suffered emotional distress.
15. Alvey timely filed a charge of discrimination against Morgan Food with the Equal Employment Opportunity Commission alleging discrimination on the basis of disability and age.
16. Alvey received a Dismissal and Notice of Rights from the Equal Employment Opportunity Commission dated January 28, 2010.

### **CLAIMS**

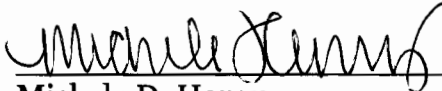
17. Alvey's termination and the implementation of the performance improvement plan violate the Americans with Disabilities Act, which prohibits discrimination on the basis of disability.
18. Alvey's termination and the implementation of the performance improvement plan violate the Age Discrimination in Employment Act, which prohibits discrimination on the basis of his age.

WHEREFORE, Plaintiff, by counsel, seeks judgment in his favor including

1. Trial by jury;
2. Compensatory damages;
3. Punitive damages;
4. Attorney fees and costs; and
5. All other relief to which the Plaintiff is entitled.

Respectfully submitted,

PRIDDY CUTLER MILLER & MEADE, PLLC

A handwritten signature in black ink, appearing to read "Michele Henry", written over a horizontal line.

Michele D. Henry

429 W. Muhammad Ali Blvd.

800 Republic Building

Louisville, KY 40202

Ph: (502) 587-8600

Fax: (502) 569-2744

henry@pcmmlaw.com